

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of _____)	
Implementation of Section 621(a)(1) of _____)	
the Cable Communications Policy Act of 1984)	MB Docket No. 05-311
as amended by the Cable Television Consumer _____)	
Protection and Competition Act of 1992 _____)	

COMMENTS OF PLAINFIELD CHARTER TOWNSHIP

These Comments are filed by Plainfield Charter Township in support of the comments filed by the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NATOA, Plainfield Charter Township believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

Cable Franchising in Our Community

Community Information

Plainfield Charter Township is a township with a population of over 30,000. Our franchised cable providers are Comcast Cable Communications Inc. and Charter Communications. Our community has negotiated cable franchises since 1979.

Our Current Franchise

Our current franchises began on 7/12/2001 and 11/01/2004 and expire on 7/15/2016 and 7/31/2019, respectively. Under the statutory timeline laid out in the Federal Cable Act, the cable operator has a 6-month window beginning 36 months before the expiration of the franchise in which to request a renewal under the Federal Act. As a result, at this time we are not currently negotiating a franchise renewal with the incumbent provider.

Our franchise requires the cable operators to pay a franchise fee to the township in the amount of 5% of the cable operator's revenues. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

We require the cable operator to provide the following capacity for public, educational, and/or governmental ("PEG") access channels on the cable system:

We currently have 5 channels with Comcast and 2 channels with Charter Communications devoted to public access.

Our franchise requires that our PEG channels be supported in the following ways by the cable operator:

Comcast provides an annual grant in the amount of \$9,517.00. This annual grant provides equipment to our PEG channel, Rogueview Community TV, located in Rockford High School.

Our franchise contains the following requirements regarding emergency alerts:

Comcast: Shall provide without charge to the Township an emergency alert system to allow audio announcements and videotext crawls on all Subscriber channels, including Federal, state or local Emergency Alert System messages.

Charter Communications: Shall include an all channel alert system to allow audio and character generated emergency announcements on all channels in keeping with FCC regulations.

Our franchise contains the following customer service obligations, by which we are able to help ensure that the cable operator is treating our residents in accordance with federal standards and the terms it agreed to in its franchise:

Both franchises shall comply with the more stringent customer service provisions of the Franchise or those adopted by the FCC. Franchises shall maintain an office for bill payment, equipment drop-off, and a toll-free phone number for use by Subscribers 24 hours per day, 7 days a week.

Our franchise requires that the cable operator currently provide service to the following areas of our community:

Comcast: No charge for extensions of cable service when there are at least thirty (30) dwelling units with 5,280 cable bearing feet.

Charter Communications: No charge for extensions of cable service where the extension would pass twenty-five (25) residences per linear strand mile of cable.

Our franchises contain the following insurance and bonding requirements:

Comcast: Shall maintain insurance as follows: Workers' Compensation with minimum limits of \$1,000,000 for each accident; Comprehensive commercial general liability with minimum limits of \$10,000,000 as the combined single limit for each occurrence of bodily injury, personal injury and property damage; Broadcasters liability coverage with minimum limits of \$3,000,000; and Automobile liability insurance with minimum limits of \$2,000,000.

Charter Communications: Shall maintain insurance as follows: Workers' Compensation with minimum limits of \$100,000 for each accident; Comprehensive commercial general liability with minimum limits of \$5,000,000 as the combined single limit for each occurrence of bodily injury, personal injury and property damage; Broadcasters liability coverage with minimum limits of \$2,000,000; Automobile liability insurance with minimum limits of \$2,000,000; and Liability insurance for environmental contamination with minimum limits of \$500,000.

The cable franchise grants the cable operator access to the public rights of way and compatible easements for the purpose of providing cable television service. Apart from the franchise, the cable provider is not required to obtain a permit from the appropriate municipal office as well before it may access the public rights of way.

The franchise agreement provides for the following enforcement mechanisms by which we are able to ensure that the cable operator is abiding by its agreement:

Comcast & Charter Communications: Township may review books and records of Company to monitor compliance with the terms of the franchise agreement.

Comcast: Upon the occurrence of an Uncured Event of Default liquidated damages in the amounts set forth in the agreement may be awarded the Township from the Company.

The Franchising Process

The cable systems serving our community also serve many adjoining communities: Grand Rapids, Rockford, Courtland Township, Cannon Township, Algoma Township, Ionia, etc. In 2001 our community worked together with approximately thirteen other communities to issue a cable franchise for the Comcast cable company. In 2004 our community worked together with approximately fifty-eight other communities to issue a cable franchise for the Charter Communications cable company. This allowed the companies to quickly obtain franchises in these communities so as to be able to serve a large region, while also allowing for individual provisions in specific franchises in order to tailor them to meet local needs.

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties.

Our current franchise provides that changes in law which affect the rights or responsibilities of either party under this franchise agreement will be treated as follows:

Both franchise agreements state that the Franchise shall be construed pursuant to the laws of the State of Michigan.

Competitive Cable Systems

Our community

- was approached once in 2000, by Everest Communications, but the provider chose to terminate their contract with the Township prior to actually offering service.
- has not denied any provider the opportunity to serve in our community.
- does have mechanisms in place to offer the same or a comparable franchise to a competitor upon request.

Conclusions

The local cable franchising process functions well in Plainfield Charter Township. As the above information indicates, we are experienced at working with cable providers to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

Finally, local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

Plainfield Charter Township therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

Plainfield Charter Township



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